



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/654,600	05/29/1996	RUSSELL F. MIZELL III	5383	7681

7590 04/08/2003

MILES & STOCKBRIDGE, P.C.
1751 PINNACLE DRIVE
SUITE 500
MCLEAN, VA 22102-3833

EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
----------	--------------

3643

DATE MAILED: 04/08/2003

43

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

MAILED Paper No. 43

APR 08 2003

GROUP 3600

Application Number: 08/654,600

Filing Date: May 29, 1996

Appellant(s): MIZEll, III

Dennis Clarke

For Appellant

Art Unit: 3643

EXAMINER'S ANSWER

This is in response to the appeal brief filed Dec 16, 2002.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

Art Unit: 3643

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

Appellant's brief includes a statement that claims 7 and 10-12 stand alone and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

W.L. Tedders and B.A. Wood: A Trap for Monitoring Pecan Weevils. J. Entomol. Sci.

29(1): 18-30 (Jan. 1994).

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 3-13 are rejected under 35 U.S.C. over Tedders. This rejection is set forth in prior Office Action, Paper No. 37.

(11) Response to Argument

Applicant argues the intended use of the trap is for stinkbugs and that Tedders is for pecan weevils. This is not persuasive since Tedders shows structure to perform the intended use. The claim does not say anything about allowing maximum light to enter the trap, only that the top portion is of a material which admits

, Art Unit: 3643

ambient light into the interior of the receptacle and onto the channel surface which Tedders clearly does. No mention is made in claim 13 that the system is highly light reflective.. It should be pointed out that even dark colors can be translucent or transparent. Also, one skilled in the art would color the trap to bring in or attract the target species. Clearly Tedders is aware of the color that works the best for pecan weevils. And Tedders shows the structure that stinkbugs are attracted to. One skilled in the art would employ the color found to work best to attract the target species just as Tedders did. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Kurt Rowan



KURT ROWAN
PRIMARY EXAMINER
GROUP 3200

KR

December 6, 2001

Conferees

MC
HT